

# UNITED STATES DISTRICT COURT

for the

Middle District of N.C.

Fourth Division

Case No.

18CV612

(to be filled in by the Clerk's Office)

José Alberto Perez

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Davie County ET. AL.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (Prisoner Complaint)

### NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.



Date: 6/20/2018

To: J.D. Hartman

140 S. Main St

Mocksville, NC 27028

From: Jose Alberto Perez

135 Green St

Mocksville NC 27028

Sheriff Hartman,

I would like to bring some things to your attention concerning the Davie County Detention Center and also would appreciate answers to some questions. So please allow me to inconvenience you for a few moments.

First of all, the Davie County Detention Center has an Administrative Remedy Procedure (Grievance Procedure) available on the M<sup>s</sup> Daniel Supply Company kiosk. What is the proper protocol for the chain of command when appealing a grievance?

Secondly, every inmate housed within the confines of the Davie County Detention Center is issued one plastic spoon and one plastic cup upon arrival. It is the inmates responsibility to keep with these items, prevention of their loss or damage, and to keep said items sanitary. Their sanitation cannot be achieved using the lukewarm water that is only available within the

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facility Please let me refer you to N.C.G.S. § 153A-221 (a), (8), (10) and § 153A-226 (a) which Guarantees the sanitation of utensils and ensures the welfare of inmates.

Thirdly, I will refer back to N.C.G.S. § 153A-221 as referenced aforesaid and bring your attention to subsection (d), item (2) of this statute which states in part: "one shower per eight inmates... and one waterfountain." Why are there no water fountains in the housing units? Why is there only one shower in a "dorm" of 10 inmates?

Finally, I have a tooth which is in need of an extraction, but the Nurse in charge (L. Barnes) said that extractions are only administered as emergencies. Nurse (L. Barnes) is not a licensed dentist or dental hygienist and cannot make that determination. I filed a grievance on the McDaniel Supply Company kiosk on 6/18/2018 with no resolve. Whom do I contact about a tooth extraction, instead of pumping my body with antibiotics which is only a temporary fix?

In closing, I am thanking you in advance for your time, attention and patience to the issues I have addressed. I shall look forward to a response in the very near future.

Respectfull Submitted,  
~~José Alberto Pérez~~  
José Alberto Pérez

cc: file

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Date: 5/21/2018

To: Clerk of Court  
140 S. Main St.  
Mocksville, NC 27028

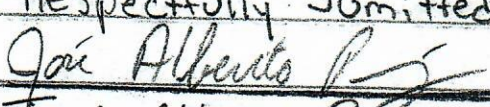
From: José Alberto Pérez  
135 Green St.  
Mocksville, NC 27028

Re: Notary Public

Greetings Clerk,

The Davie County Detention Center does not have a Notary Public and I would like to submit filings to the court in pro se. Pursuant to the United States Constitution Amendment 14 and Johnson v. Avery, 393 U.S. 483, 485 (1969) "prisoners' right of access to courts may not be denied or obstructed."

THEREFORE, I am formally asking to make available immediately a Notary Public so I may file my pleading(s) to the Court without delay and at no charge pursuant to N.C. Const Art XI, sect 4.

Respectfully Submitted,  
  
José Alberto Pérez  
A.A.C.

C. What date and approximate time did the events giving rise to your claim(s) occur?

12/29/2017 to present

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

5/21/2018: Notary Public denied by Clerk of Court: Kiosk

1-3-18: "Medical: We are unable to treat you for std: L. Barnes

2-2-18: CPT Sloan: Water Temp to make soup: Answer = Nope

6-13-18: CPT Sloan: Sanitation Spm, cup, trash: Answer = Nope keep studying

6-19-18: CPT Sloan: Grievance Protocol: Answer No.

6-25-18: CPT Sloan: Kitchen Grievance very disrespectful: Said whine or call who ever i feel like Appeal Closed "All appeals cannot response back"

**V. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

12/29/2017 to present has denied me Medical Attention, Dental, STD Check

**VI. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I ask for \$100,000 for physical and mental damages and unfair punishment, due to: Notary Public denial, Grievance Procedure, Sanitation, Medical situation, Violation of the Legal Mail privacy.



## VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Davie County Detention Center

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Medical, denial of Notary Public, Sanitation, Grievance Procedure

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

McDaniel Supply Company Kiosk

2. What did you claim in your grievance?

denial of Notary Public, Medical, sanitation, Grievance Procedure

3. What was the result, if any?

NONE

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I can not appeal for the reason is that the appeal(s) do not leave the facility to a higher authority this is why there no remedy for the Grievance(s) or the appeal(s).

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

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G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

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*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

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### VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*



## IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 7-8-2018

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

José Alberto P.

José Alberto Perez

1083-02903-1031

135 Green st

Mocksville

*City*

NC

*State*

27028

*Zip Code*

### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

*City*

*State*

*Zip Code*

Telephone Number

E-mail Address